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December 1, 1999

Magalie Roman Salas, Esq.
Office of the Secretary
Federal Communications Commission
The Portals, 445 Twelfth Street, S.W.
12th Street Lobby, TW-A325
Washington, D.C. 20554

EX PARTE OR LATE FILED
RECEIVED

DEC 1 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte Presentation in
Docket Nos. 92-260 and 99-230

Dear Ms. Salas:

Four copies of this letter are herewith filed pursuant to § 1.1206 (b)(1) and (2) of the Commission's rules to place on the public record the fact that the Competitive Cable Coalition ("CCC"), through its members, met yesterday with Commissioners' staffs and staff of the Cable Services Bureau to introduce the newly-formed CCC to the Commission's staff. In addition to describing the CCC and the purposes for its creation, CCC members also discussed generally program access issues, both as to access to programming and the costs of such programming to coalition members. Cable inside wiring issues were also mentioned. While very general in nature, the presentation thus addressed issues pending in Docket Nos. 92-260 and 99-230. As part of the presentation, a two-page handout describing CCC and the issues with which it is primarily concerned was distributed. A copy of that handout is attached hereto. A copy of this letter, together with its attachment, is being served on each staff member with whom the CCC met yesterday.

Any questions in connection with the foregoing should be directed to the undersigned.

Very truly yours,



Sean Stokes
For Competitive Cable Coalition

Attachment

cc: Rick Chessen
Helgi Walker

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December 1, 1999

Page 2

David Goodfriend

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COMPETITIVE CABLE COALITION

WHO WE ARE

- A diverse group of terrestrially-based wireline and wireless cable overbuilders seeking to introduce viable video competition to incumbent cable operators
- Current membership

Ameritech New Media, Inc.
BellSouth Entertainment, Inc.
DTG McLeod USA
Hiawatha Broadband Communications
Knology Holdings, Inc.
Lexcom Cable
Mainstreet Communications
OmniMedia Associates, LLC
RCN Corporation
Seren Innovations, Inc
21st Century Telecom Group, Inc
Unitel Communications

WHY WE CAME TOGETHER

- To promote adoption of laws and regulations that ensure fair competition in the multichannel video programming distribution (MVPD) marketplace by eliminating certain anticompetitive practices of incumbent cable operators that frustrate our ability to compete and serve customers
- The competitive video concerns of Coalition members are not specifically addressed by other industry organizations

SBCA – Satellite Broadcasting and Communications Association represents only direct-to-home satellite video competitors

WCAI – Wireless Communications (formerly Cable) Association International represents only wireless cable (MDS/ITFS) competitors

USTA – United States Telecommunications (formerly Telephone) Association represents only video affiliates of local exchange carriers

NCTA – National Cable Television Association represents only incumbent cable company interests

ANTICOMPETITIVE PRACTICES SHOULD BE PROHIBITED

- The introduction of competitive video services to consumers is frustrated and threatened by the following anticompetitive practices:
 - (1) inadequate access to programming
 - (2) discriminatory programming prices and practices
 - (3) anticompetitive tactics involving cable inside wire in MDU environments
- The purpose of the Coalition is to work for effective public policy reform in these three areas and in additional areas should the need arise
- Because current laws and regulations contain numerous loopholes, they do not adequately address these problems

1) Inadequate Access to Programming

Problem:

- Current rules allow incumbent cable companies to enter into exclusive contracts when: (a) programming is not affiliated with a cable operator or (b) programming is distributed via terrestrial facilities only, not via satellite

Solution:

- Extend existing federal program access protections to all programming, irrespective of cable affiliation or delivery technology; this step should eliminate these loopholes

2) Discriminatory Programming Prices and Practices

Problem:

- Discriminatory programming prices in the form of substantial volume discounts that bear no relationship to cost and are available only to the largest MSOs (i.e., companies that do not compete against one another)
 - (a) programming costs are the largest single cost component for video competitors, typically representing 30% to 50% of revenue
 - (b) coalition members pay 50% to 100% more for popular programming than the largest cable operators against whom they must compete
 - (c) large MSOs that are affiliated with many programming services benefit from this discriminatory pricing and have sufficient market power as purchasers of programming to require such discounts from nonaffiliated programmers

- Programmers with market power force new competitors to carry unwanted programming as a condition of carriage
 - (a) mandatory tying arrangements hurt consumers by forcing MVPDs to drop more popular programming to make room for less popular programming

Solution:

- Require strict cost justification for any volume discount offered to MSOs that is not also made available to video competitors based on subscriber volumes and prohibit non-optional tying arrangements

3) Anticompetitive Tactics Involving Cable Inside Wire In MDU Environments

Problem:

- Cable operators use a variety of anticompetitive tactics to thwart video competition in MDU environments, such as:
 - (a) forcing competitors to postwire MDUs with a duplicate set of wiring by making unsubstantiated and disingenuous ownership or right to use claims
 - (b) refusing to remove or relocate lock boxes that prevent access to existing subscriber cable home wiring
 - (c) securing perpetual, exclusive contracts to serve MDUs

Solution:

- Clarify and, if necessary, reinforce the FCC's jurisdictional authority to determine the appropriate location of the demarcation point between cable company-owned wire and MDU cable wiring owned by the subscriber or the MDU owner; prohibit perpetual exclusive cable service contracts